seeks to bring his claim within one of the exceptions. *Bluthenthal* v. *Jones, supra; In re Miller*, 212 Fed. 920. Where the debt is a judgment, the court will look behind that in order to see upon what the judgment is based. *Bullis* v. *O'Beirne*, 195 U. S. 606; *Forsyth* v. *Vehmeyer*, 176 Ill. 359, 52 N. E. 55, affirmed in 177 U. S. 177. However, in determining this question, only the records of the case are available and admissible. *Bullis* v. *O'Beirne, supra; Burnham* v. *Pidcock*, 58 App. Div. 273, 68 N. Y. Supp. 1007. A claim on an express warranty is essentially a claim arising out of a contract. *Frederic L. Grant Shoe Co.* v. *Laird Co.*, 212 U. S. 445. Where it is doubtful whether it was based on contract or on fraud, the creditor has not sustained his burden of proving the claim to be within the excepted class and hence it is discharged. *Cooke* v. *Plaisted*, 181 Mass. 82, 62 N. E. 1054; *Hallagan* v. *Dowell*, 179 Iowa, 172, 161 N. W. 177. This seems to be the situation in the principal case.

BANKRUPTCY — FRAUDULENT CONVEYANCES — RIGHTS OF SUBSEQUENT CREDITORS WHEN NO FRAUD AS TO THEM. — A trustee in bankruptcy, proceeding under § 70 e of the Bankruptcy Act of 1898, had imposed a charge on certain property, fraudulently conveyed only as to existing creditors. The amount of the charge had been paid to the trustee, and the only existing creditor petitioned that the whole amount be paid over to him. The petition was denied. *Held*, that the judgment be reversed. *American Trust & Savings Bank* v. *Duncan*, 43 Am. B. R. 7 (Circ. Ct. App.).

A trustee in bankruptcy, suing under § 70 *e* of the Bankruptcy Act of 1898, to set aside a conveyance, fraudulent only as to existing creditors, did not in his bill give the names of the existing creditors. The conveyance was set aside. *Held*, that the decree be sustained. *Riggs* v. *Price*, 43 Am. B. R. 413 (Mo.).

The right of subsequent creditors to set aside conveyances is variously made to depend upon fraud as to them and fraud as to existing creditors. *Harlan* v. *Maglaughlin*, 90 Pa. 293; *Ebbitt* v. *Dunham*, 25 Misc. 232, 55 N. Y. Supp. 78. But where the subsequent creditor cannot set aside the conveyance, he should not participate in the proceeds in case one with a better right does set it aside. *Lee* v. *Hollister*, 5 Fed. 752. See *Gardner* v. *Kleinke*, 46 N. J. Eq. 90, 94, 18 Atl. 457, 459. However, the rights of subsequent creditors, when the debtor becomes bankrupt, have been in effect increased by the Bankruptcy Act. The trustee, it would seem, acts for the benefit of all the creditors and not for the benefit of a particular creditor. See *In re Rodgers*, 125 Fed. 169, 180. Thus, where a creditor holds a note, in which the bankrupt has waived certain exemptions for the benefit of the creditor, the trustee will not act for that creditor on the waiver of exemption. *Lockwood* v. *Exchange Bank*, 190 U. S. 294. Again, § 67 f of the Bankruptcy Act, which avoids all liens obtained through legal proceedings within four months prior to the petition unless the court orders the lien preserved for the benefit of the estate, is interpreted as meaning that when the lien has been so preserved, the distribution of the proceeds is not confined to the existing creditors. *First National Bank* v. *Staake*, 202 U. S. 141; *Globe Bank, etc.* v. *Martin*, 236 U. S. 288. See 28 HARV. L. REV. 703. Section 70 *e* provides that the trustee may set aside a conveyance which any creditor might have avoided. Neither § 67 *f* nor § 70 *e* prescribes a distribution of proceeds which come into the trustee's hands as a result of his succeeding to the creditor's rights, but it would seem that the trustee is acting for the benefit of all the creditors, as well under § 70 *e* as under § 67 *f*. If *American Trust & Savings Bank* v. *Duncan* is sound, it must follow that existing creditors alone will benefit from a charge imposed through their rights by the trustee, while they will have to share with subsequent creditors in case they have themselves secured a lien, within four months prior to bankruptcy, through legal proceedings. Nothing further than the statement of this result seems necessary to point out the undesirability of the decision.